



National Casket Retailers Assoc. FTC workshop -internet sales caskets.

10/09/02 First let me Thank you for having me here, a representative of the National Casket Retailer's Assoc. -- or known as the NCRA. I also want to make it clear, when I am speaking negative of any funeral directors today, it is not the whole group. Many fine upstanding people have chosen this field to work in, and do it well. Also, the National Funeral Director's Assoc. has in the past, and still today, been * very negative about third party retailers in this mix. I had emailed the NFDA about their Funeral Service Consumer Protection Forum, to be notified about the next meeting, and please add the NCRA -- no response, never any direct contact. I tried again posting publicly on the internet website at *. Funeral Service Professional. No acknowledgment, yet NFDA posts. As we meet the changing environment & the challenges, it is the NFDA & their like associations, that are perhaps, trying or permitted **to be the single voice** for advocacy & outreach to all of funeral service. This appears to be counted in as one of our biggest hurdles, even on the internet.

The Internet is simply another media for communications -- simply an additional conduit for information, sales and distribution - however it is a factor in the funeral industry marketplace. In a sense the usefulness of the internet really establishes the Web as a viable channel and focuses the Web as THE channel for the tremendous reach of the web and the tremendous possibilities.

While it is not illegal to have a monopoly position in a market, the antitrust laws make it unlawful to maintain or attempt to create a monopoly through tactics that either unreasonably exclude firms from the market or significantly impair their ability to compete. A single firm may commit a violation through its unilateral actions, or a violation may result if a group of firms is working together to monopolize a market. While it is not below cost pricing that drives this industry to monopolize this field, it is as we can show, groups of firms working together to monopolize these markets in casket retailing and grave liner sales. The dominate casket manufactures refuse to sell directly to casket store owners, such as Batesville, Aurora and *1York. It is said they have 80 and up percentage of the market when a casket is sold. The conglomerates such as SCI or Alterwood who also own cemeteries, which also sell funeral goods, have no problem obtaining funeral goods due to licensed funeral directors being on board. Some third party retailers can get the dominant casket brands -- however, only by the retailer being forced to go through a "broker" that raises our costs, making it a disadvantage. (This is a licensed funeral director that is sometimes found on the internet or locally, open to making more income by acting as a broker). This allows our rivals more freedom of trade than the casket stores, as the restrictions thrown in our path offer them an unfair advantage. This is even though the third party retail prices for these brands are at a far less cost to the public, time and time again. In fact, it allows the price of these funeral goods to be kept artificiality high.

Batesville, (a div. of Hillenbrand, had sales of \$2.1 billion last year with forecast representing growth of 14 percent to 15 percent for the current year. Retailers believe this firm is ONE of the largest abuser of this marketplace. Leading by example, other casket manufactures follow. http://story.news.yahoo.com/news?tmpl=story&u=/ap/20020927/ap_on_bi_ge/deathly_business_1) has in place a **distribution policy**, *1a -that only licensed funeral directors in the state that the sale is in, will be permitted to be the one ordering the product from the local warehouse, servicing that funeral home.

Internet sales have slowed down considerably due to this now being enforced. *2
Lawsuits have opened from them to retailers doing business on the internet -- to stop the practice of making their product available to the public, by casket store retailers -- not having or owning a funeral home.

I myself, when we started five years ago, used to have more sales to the public in California, over my website for example, than in Ohio. Now however, sale tactics by some morticians, having the last look by using unfairly, the **bundled package** that I cannot compete against, and this restriction of Batesville's product, our store has not had a sale to a customer in California for over a year. However, Jackie Tubbs found us on the internet at burialitems.com, and wrote us a glowing letter, stating, "Because of the way the Louisiana rules are written concerning purchasing caskets out-of-state, the consumer is led to believe that it can't be done. The same holds true for those states not overturned -- still trying to restrict internet sales of caskets by strongholds in place - implying college is needed, to sell 120 FT. of wood, making up a casket.

- On the internet we have (as well local sales) met the roadblock of **a mortician unfairly using his or her state funeral director's license** to be the last one to offer the family a discount. A customer has come in, and had already made the casket purchase at a casket store a done deal. Retailers have lost sales due to morticians "**having the last look**" by offering the customer a "package or bundled deal" **that includes funeral service, against which the casket store owner cannot compete**. Sales should not be bundled with the services, it is not open trade then.
- The casket retailers do not object to being placed under the funeral rule, but we want fair trade opportunities. As retailers and business entrepreneurs we are under a lot of individual state rules already.

The selective discount to the casket, is given more to the shoppers who have already seen a casket store. Let them only have **one price sheet** and be required to offer that to the families, not two sheets, one for shoppers, and one for the rest. Let them not be able to use their state funeral director's license unfairly to compete against us, or "**bundle the goods in with their services**."

Let's address grave liners or outer burial container internet sales. Dominate are Wilbert, <http://www.wilbertonline.com/> with 350 licensees, or more (with "jobbers"), Doric with 126 or more with jobbers, some carrying both brands, plus others like Eagle or Trigard.

I am located in Ohio, A Team Master's caskets, vaults and more. We sell on the internet often. I have to (unfortunately) tell my prospective customer, that not always, in all states, can we find a concrete supplier that will sell to us, a casket retailer. This is due to the market being **locked in by those in the field far before us**. On getting the details, I look up all concrete vault dealers in the area. Sometimes calling back saying we are unable to fulfill that order, due to restrictions in this industry, and losing that internet sale.

If one goes to a website called Funeral.com, rumored to be owned by Wilbert Vault, or a division of, doing a search on their site for concrete liners, only the Wilbert line comes up. However, no simple concrete grave liner, which by the way, is the standard government issue to all of the families buried at Veteran cemeteries. I am told that there are, "quote: in Ohio, 12 Wilbert dealers, and in Ohio and all the rest of the Continental United States, **there are no territories left** for sale, they are all sewed up." One dealer might cover a fifth of a state, and another may overlap the area a bit, but no dealer is permitted to install or deliver into another's territory, except by a transfer sale. **Any dealer can refuse a transfer**, and has, once they find out it is from a casket retailer instead of a mortician. Yet requesting a wholesale purchase of a concrete grave liner, that does not require a transfer as the main distributor does not manufacture them, however, again, **it is put up as a restriction** to be able to do business with that firm in that state. I recently sold a concrete grave liner to a woman in Houston Texas - I collected \$525.00 for it, she said I saved her \$400.00 -- for a basic concrete vault. When adding savings on a casket, we are talking a lot of cash, Big discounts, & frequent blockades in procuring both of these products.

The industry is smug in knowing boycotting and dealings go on and might be hard to prove -- but it happens often. Funeral directors, casket manufacturers and dealers for vaults, are often guilty of abusing so-called monopoly power to stifle competition. Because they are businesses, many have forged behind-the-scenes arrangements and agreements that prevent them from being purely unbiased and instead, practice all-encompassing abuse.

Again, from the website <http://www.funeral.com> - *3 an example of one of many internet sites. Holding up the FTC web site they copy examples from it -- in part...



- "It may be less expensive to buy an outer burial container from a third-party dealer than from a funeral home or cemetery. Compare prices from several sources before you select a model."

Sadly, much of the public has no idea what a third party dealer or seller is. If the National Casket Retailers Associations website, at <http://www.casketstores.com> information were added to the FTC references -- <http://www.ftc.gov/bcp/online/pubs/services/funeral.htm> along with those of NFDA and the others, whenever the FTC is quoted or read, the public could then find out about third party sellers and other important information to allow freedom of choice.

The Institute for Justice -- from their web site, The funeral business is big business. Each year, Americans arrange more than two million funerals for family and friends--for most of us, that means about once in every 14 years. The estimated 22,000-plus funeral establishments handle most of those two million funerals across America. **Nationwide, the funeral business is a \$25 billion per year industry. This consumer funeral product has dominant players, not because their product is any better than others, as evidenced by a class action lawsuit in Calif. against Batesville and SCI about deteriorating caskets to the tune of \$3.75 million dollars, <http://www.classactionamerica.com/cases/case.asp?cid=1823> or another class action lawsuit coming up in Missouri against a vault company, but due to many restrictions in this market, trying to keep price & profits high. <http://www.rill.com/financial.html>** According to American Demographics magazine, your funeral could be the third most expensive lifetime purchase--right after your home and automobile. (*American Demographics, July 1990*) *Source: Federated Funeral Directors. Percentages are approximate. Projection for 1999 based on average annual increase of the previous two decades.*



Below is summary & all documentation

- Some Americans may get out of this world without ever operating a computer, or flying in an airplane, or even making a telephone call. Yet the abuse was there in those industries enough to warrant action by the government. Not many ever die and have final services without the call to a funeral director, and those purchases associated with death. If indeed, 99.9% would call on a funeral director for services, and 70-85% OR MORE sales are to the dominant funeral goods' providers, in today's marketplace this is and has been a monopoly. I beg of you, on behalf of the American public to look into these matters. For the NCRA and other casket retailers we ask assistance in obtaining a more open market. To remove the stranglehold placed on us by these ever evolving monopolizing firms, or Associations refusing us a voice or responding to concerns, that excludes us or offer freedom of choice - even on the internet.

Submitted by Ms. Betty Brown, Vice Chair of the National Casket Retailers Association, (NCRA) web site <http://www.casketstores.com>, email casketstores@email.com CEO A Team Masters, 262 Shelton Blvd. Eastlake, Oh 44095 <http://www.burialitems.com> a-team@stratos.net 800-595-1313 or 440-942-8769, fax 440-951-6871

<http://www.proamopen.com/usvault.html> Burial Vault Companies on the Web:
<http://www.doric-vaults.com/> Doric Products Inc.
<http://www.eaglevaults.com/> Eagle Burial Vault Association Inc.
<http://www.vantageproducts.com/> Vantage Products Corp.
<http://www.wilbertvault.com/> Brown & Wilbert
<http://www.charlestontrigard.com/> Charleston-Trigard
<http://www.trigard.com> Trigard Burial Vaults
<http://www.wilbertonline.com/> Wilbert Vaults

*http://www.funeralserviceprofessional.com/Funeral_Service_News_19602.html#National_Casket_Retailer's (link,)
 NDFA In June of 1998, the National Funeral Directors Association (NFDA) published "Guidelines for handling third party caskets" and made them available to funeral directors. I believe it would more appropriately have been called "How to put casket stores out of business." In the pricing section of the guidelines, funeral directors are taught to offer consumers a discount on the condition they also purchase a casket from the funeral home. Caskets they may not want or can buy elsewhere at a lower price. <http://www.biomed.lib.umn.edu/hw/guide.html> ** copy of email to NFDA: : Funeral Service Consumer Protection Forum > Attn: NFDA President Robert Vandenberg 3/23/2002 I believe your not listing the other associates. that might be able to shed light on some of the problems, you may not be fully making use of all information or all avenues looked at for Protecting Consumers. Please add the National Casket Retailer's Assoc. to your next meeting or email, for funeral concerns-- as we could possibly send a representative from our consumer group.
 > Thank You, Betty Brown, Vice Chair, (NCRA) <http://www.casketstores.com>
 > National Casket Retailer's Assoc. > cc: file and emailed to: (please direct this to...) > International Cemetery and Funeral Association Chief Operating Officer Robert Fells, Cremation Association of North America President, Tom Snyder, > AARP Senior Legislative Representative of Federal Affairs Jeff Kramer, > and Federal Trade Commission Associate Director of Marketing Practices Division Bureau of Consumer Protection, Eileen Harrington.

*1 York (purchased by Matthews) <http://biz.yahoo.com/e/020812/matw.html>,

*1a Batesville policy http://www.funeralserviceprofessional.com/Funeral_Service_News_16402.html#Delivery_Policy

*2 Batesville vs Funeral Depot of Florida lawsuit over internet sales

*3 <http://trust100.com/main/main.html> , http://www.aarp.org/mmaturity/mar_apr00/ripoff.html ,
<http://www.funerals.org/> , <http://www.nfda.org/mediacenter/releases/2002/sept23.html>

Summery: Today, we just want to be heard, to present what is happening - and again, thank you for the time. . The NCRA is the oldest casket retailer's organization with members in many states. There is also CCRA in Calif. <http://www.casketretailers.com/index.shtml> for retailers to that state and <http://www.tafmr.org/> the TAFMR Texas Assoc. of Funeral Merchandise Retailers.

Like in a stock car race, this contest for the prize is won by those out front. While the retailers and morticians may not be traveling 130 miles per hour, we are competing for the big prize. The price the wicked teammates force upon the whole field, due to not having monitors, the retailing rivals and balance of the good rivals and the public is paying when we lose - is stiff. Nascar monitors the players on the track, wicked drivers are black flagged -- they fine and remove those that do not play fair or are illegal in the pits. *THEY ARE MADE TO ALL FOLLOW THE RULES!* Yet as retailers in this contest we are bumped off the track, spun into the wall and put out of commission at each turn by some morticians. AND In the pits we have most of the dominant product manufactures adding unfair restrictor plates, illegal spoilers making us crash and burn, and dangerously overinflated tires, all in the name of a contest we cannot win without assistance to make sure it is a level playing field. If the crowd knew what went on, they'd boo some of the players off the track and let the "rookies" have the edge. While we are not rookies anymore, many of the other team have called us the "wild card" and made up their own rules as they went along . The champion in NASCAR hasn't had to resort to cheating, spinning others out or bad practices in the pits to get ahead and can hold his head up proud. The funeral trade may have or has had enough bad press already without others crying foul, but we need to straighten this marketplace up, bring it out of the dark with what is going on, so the public can be the true winners here. We are all in the spotlight together, running towards a championship we can all be proud of, when we win. At the end of the day, we want to be able to say with our heads up, we were ALL given the chance and won or lost, because it was a fair contest.

Casket Store Retailers can't say that yet although we have been part of the mix for over 1/2 of a decade already. Many have been **forced out** of business due to the industry imposed trade restrictions and monopolies getting stronger each year. Once we found a way to overcome this partly on the internet, again, blockades thrown up, and more stores threatened. Does this industry believe they have owned the market for so many years, whatever they do will be unquestioned? Trust me - the public is uneasy too. Make the whole industry part of the answer, not the problem of trusting the death care group. We all want to hang with a reputable crowd. Today it needs much - - we look to you.